

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO(S). 457/2021

RAVINDRA DATTATRAY PATIL & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

O R D E R

This Writ Petition prays for a Writ or Order in the nature of Mandamus declaring the order dated 06.04.2021, passed by respondent No.1 State, to the extent it created an exception in respect of Co-operative Societies such as Kohlapur Zilla Sahakari Dudh Utpadak Sangh Maryadit Society Ltd. ("Respondent No.7- Federation", for short) to be invalid.

The order dated 06.04.2021, stated as under:

"And according to the provision in the Section 73 KK of the Maharashtra Co-operative Societies Act, 1960, "Power of the State Government to postpone the elections of co-operative societies/institutes in the interest of public during any natural disaster"; and taking into consideration Corona Virus (COVID-19) which has been declared by the World Health Organisation as the worldwide pandemic and serious situation arising from that, and the natural disaster fallen onto the State due to that; in order to prevent the spread of the vires, elections in/of all the co-operative

societies in the state were postponed from time to time by the orders dated 18th March, 2020, 17th June 2020 and 28th September, 2020 till 31st December 2020; and 16th January, 2021 & 24th February, 2021 until 31st March, 2021.

Whereas, in March, 2021 taking into consideration the increasing spread and thereby increase in numbers of patients of COVID-19 in the State; in order to prevent the spread of COVID-19, vide Read Number 15, procedure of the partial lock-down in the State has begun. The Government is satisfied that, during such situation it would not be appropriate to conduct elections of co-operative societies in the State in the present times.

And whereas, according to the provisions in the Section 73 KK of the Maharashtra Co-operative Societies Act, 1960; there is no provision to postpone the elections of/in the co-operative societies for the period of more than one year; and taking into consideration the increasing spread of Corona-19 in the present times, it is necessary that the elections be postponed further ahead. According to the Inherent Natural Sovereign Authority vested with the Government; the provisions in the Section 73 KK of the Maharashtra Co-operative Societies Act, 1960 are exempted; and excluding co-Operative Societies wherein the Honourable High Court/Honourable Supreme Court has/have ordered to conduct elections; elections of /in all the co-operative societies in the state are hereby postponed, from the stage they are at present on that stage, until Date 31st August, 2021"

Thus, insofar as elections to Respondent No.7-Federation are concerned, as a result of the order dated 06.04.2021 the process of election as was undertaken and was in progress would be required to be taken to logical conclusion.

While issuing notice in the present petition, the submissions advanced on behalf of the writ petitioners were extracted in the order dated 19.04.2021 passed by this Court as under:

"Mr. Maninder Singh, learned Senior Advocate appearing for the petitioners has invited our attention

to the Government Order dated 06.04.2021, which postponed the elections to various Co-operative Societies. It however made an exception in cases where there were orders passed either by the High Court or by this Court to conduct elections by a particular date.

Mr. Maninder Singh submits that there were no such peremptory directions issued by the High Court or by this Court in the instant matter, as a result of which an exception could be made. He further submits that if the situation, pursuant to the increasing spread of COVID-19 pandemic, is of such dimension and alarming proportion that elections with respect to other Co-operative Societies must be postponed, no exception could be made in the instant case."

Reiterating said submissions, Mr. Maninder Singh, learned Senior Advocate contends:-

(a) There was no positive or peremptory direction either by the High Court or by this Court to hold elections by a particular date.

(b) The illustration regarding the Pandharpur bye-election to the Legislative Assembly, given in the counter affidavit of the State may not be appropriate. As a matter of fact, soon after the Bye-election there was surge in the number of Covid affected persons in the area.

(c) As of now, out of total number of Covid related deaths that have occurred in the country, 1/3rd are from Maharashtra; and in Kohlapur District alone there have been about 229 deaths since 19th April, 2021.

(d) There was no reason to make any distinction in respect of respondent No.7-Federation; and like other cooperative societies, the elections to respondent No.7 Federation should also have been

postponed.

Mr. ANS Nadkarni, learned Senior Advocate appearing for some of the intervenors supports the submissions of Mr. Maninder Singh, learned Senior Advocate.

Mr. Ravi Kadam, learned Senior Advocate assisted by Mr. Rahul Chitnis, learned Advocate for respondent Nos.1-3 including the State Co-operative Election Authority (R-3) submits that the number of electors for elections to respondent No.7-Federation are about 3650 and considering the present situation and circumstances, the Authority has decided to have 35 polling centres in 12 Talukas of Kohlapur District. Thus, there would be about 100 electors per polling centre spanning over at least 8 hours on the day of polling.

He further submits that Respondent No.3-Authority may consider increasing the number of polling stations so that the congregation at the polling centres is avoided. It is further submitted that in terms of the election programme, only last two stages namely the polling and counting of votes are remaining which stages can be regulated by the respondents without any difficulty. He further submits that the orders dated 10.02.2021 and 11.02.2021 did issue certain directions to respondent No.3 authority "to proceed with election process as expeditiously as possible" pursuant to which the election program was declared and the process was undertaken.

Mr. P.S.Patwalia, learned Senior Advocate appearing for some of the private respondents has supported the submissions advanced by Mr. Ravi Kadam, learned Senior Advocate.

It must be stated at the outset that the orders dated 10.02.2021 and 11.02.2021 were passed in the month of February, 2021 when the second wave of Covid-19 Pandemic had not flared up and the situation was comparatively quite normal. Though the orders did not direct peremptorily that the elections be held by a particular date, there was a positive direction to proceed with the election process expeditiously.

If the State-machinery has decided to go ahead with the election process in respect of certain societies including respondent No.7- Federation, no fault can therefore, be attributed to the actions taken by the State-machinery.

In any case, considering the facts that only last two stages in the election process are to be undertaken and that there are just about 3650 voters constituting the electoral power, we see no reason to entertain this petition but we issue following directions, which in our considered view will meet the ends of justice.

(a) Instead of 35 voting centres covering 12 Talukas of the district, we direct Respondent No.3- Authority to have as many as 70 voting centres. It is entirely upto Respondent No.3-Authority to fix the location of these voting centres considering the exigencies of the situation.

(b) The entire election process will be conducted strictly in accordance with the protocol established under various directions issued by the concerned authorities including the State Government during Covid-19 Pandemic and Respondent Nos. 1 to 3 shall strictly

go by those norms and protocol.

(c) Strict vigil shall be maintained by Respondent Nos. 1 to 3 and no congregation of people shall be permitted in any manner.

These directions are passed in the peculiar facts and circumstances of the instant case, considering the number of electors and the fact that only last two stages of the election process remain to be undertaken and to ensure that the electoral process is undertaken smoothly.

With the aforesaid directions, the writ petition is disposed of.

.....J.
(UDAY UMESH LALIT)

.....J.
(HRISHIKESH ROY)

New Delhi
April 27, 2021.

ITEM NO.4 Court 3 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 457/2021

RAVINDRA DATTATRAY PATIL & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(IA No. 52608/2021 - GRANT OF INTERIM RELIEF)

WITH

Diary No(s). 9982/2021 (IX)

(IA No. 53653/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 53656/2021 - EXEMPTION FROM FILING O.T.

IA No. 56422/2021 - INTERVENTION/IMPLEADMENT

IA No. 53651/2021 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Diary No(s). 10008/2021 (IX)

(FOR ADMISSION and I.R. and IA No.53465/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.53466/2021-EXEMPTION FROM FILING O.T. and IA No.53464/2021-PERMISSION TO FILE PETITION (SLP/TP/WP/..);IA No. 57640/2021 - EXEMPTION FROM FILING O.T.;IA No. 55876/2021 - EXEMPTION FROM FILING O.T.;IA No. 56425/2021 - INTERVENTION/IMPLEADMENT;IA No. 55873/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-04-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Maninder Singh, Sr. Adv.
 Mr. Vatsalya Vigya, AOR
 Ms. Ashita Chawla, Adv.

For Respondent(s) Mr. Ravi Karam, Sr. Adv.
 Mr. Rahul Chitnis, Adv.
 Mr. Sachin Patil, AOR.

